

IC 6-1.1-20

Chapter 20. Procedures for Issuance of Bonds and Other Evidences of Indebtedness by Political Subdivisions

IC 6-1.1-20-1

"Bonds" defined

Sec. 1. For purposes of this chapter, the term "bonds" means any bonds or other evidences of indebtedness payable from property taxes for a controlled project, but does not include:

- (1) notes representing loans under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 which are payable within five (5) years after issuance;
- (2) warrants representing temporary loans which are payable out of taxes levied and in the course of collection;
- (3) a lease;
- (4) obligations; or
- (5) funding, refunding, or judgment funding bonds of political subdivisions.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.37-1988, SEC.8; P.L.25-1995, SEC.39.

IC 6-1.1-20-1.1

"Controlled project" defined

Sec. 1.1. As used in this chapter, "controlled project" means any project financed by bonds or a lease, except for the following:

- (1) A project for which the political subdivision reasonably expects to pay:
 - (A) debt service; or
 - (B) lease rentals;

from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 or IC 6-1.1-19. A project is not a controlled project even though the political subdivision has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient.

- (2) A project that will not cost the political subdivision more than two million dollars (\$2,000,000).

- (3) A project that is being refinanced for the purpose of providing gross or net present value savings to taxpayers.

- (4) A project for which bonds were issued or leases were entered into before January 1, 1996, or where the state board of tax commissioners has approved the issuance of bonds or the execution of leases before January 1, 1996.

- (5) A project that is required by a court order holding that a federal law mandates the project.

As added by P.L.25-1995, SEC.40. Amended by P.L.178-2002, SEC.30.

IC 6-1.1-20-1.2

"Debt service" defined

Sec. 1.2. As used in this chapter, "debt service" means principal

of and interest on bonds. The term includes the repayment of an advance from the common school fund under IC 21-1-5-3.

As added by P.L.25-1995, SEC.41.

IC 6-1.1-20-1.3

"Lease" defined

Sec. 1.3. As used in this chapter, "lease" means a lease by a political subdivision of any controlled project with lease rentals payable from property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 or IC 6-1.1-19.

As added by P.L.25-1995, SEC.42.

IC 6-1.1-20-1.4

"Lease rentals" defined

Sec. 1.4. As used in this chapter, "lease rentals" means the payments required under a lease.

As added by P.L.25-1995, SEC.43.

IC 6-1.1-20-1.5

"Obligations" defined

Sec. 1.5. As used in this chapter, "obligations" refers to a contract or promise to pay of a political subdivision that would be considered a bond or lease under this chapter but for the fact that it is payable solely from funds other than property taxes.

As added by P.L.25-1995, SEC.44.

IC 6-1.1-20-1.6

"Property taxes" defined

Sec. 1.6. As used in this chapter, "property taxes" means a property tax rate or levy to pay debt service or to pay lease rentals, but does not include taxes allocated for an allocation area under IC 6-1.1-39-5, IC 8-22-3.5-9, IC 36-7-14-39, IC 36-7-15.1-26, or IC 36-7-15.1-53.

As added by P.L.25-1995, SEC.45. Amended by P.L.102-1999, SEC.1.

IC 6-1.1-20-1.7

"Project" defined

Sec. 1.7. As used in this chapter, "project" means any project or purpose for which a political subdivision may issue bonds or enter into leases, including a sale-lease back of an existing building.

As added by P.L.25-1995, SEC.46.

IC 6-1.1-20-2

Lease obligations and issuance of instruments authorized

Sec. 2. A political subdivision may, subject to the limitations provided by law, issue any bonds, notes, or warrants, or enter into any leases or obligations that it considers necessary.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.25-1995, SEC.47.

IC 6-1.1-20-3 Repealed

(Repealed by P.L.25-1995, SEC.94.)

IC 6-1.1-20-3.1

Imposition of taxes to pay debt service or lease rentals; procedures; notice; petition

Sec. 3.1. A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

- (1) The proper officers of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

- (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the organizations described in subdivision (1)(B).

- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

- (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) The purpose of the bonds or lease.
 - (E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

- (F) With respect to bonds issued or a lease entered into to open:

- (i) a new school facility; or
 - (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

- (G) A statement of whether the school corporation expects

to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) owners of real property within the political subdivision; or

(B) five percent (5%) of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision (7).

(7) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by

following the provisions of law relating to the bonds to be issued or lease to be entered into.

As added by P.L.25-1995, SEC.48. Amended by P.L.53-1996, SEC.2; P.L.56-1997, SEC.1; P.L.178-2002, SEC.31; P.L.1-2004, SEC.30 and P.L.23-2004, SEC.33.

IC 6-1.1-20-3.2

Petition and remonstrance process; notice; procedure

Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition or remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;
- (D) govern the closing date for the petition and remonstrance period; and
- (E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision. (4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision.

(6) If a greater number of owners of real property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect

owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

As added by P.L.25-1995, SEC.49. Amended by P.L.53-1996, SEC.3; P.L.54-1996, SEC.1; P.L.2-1997, SEC.20; P.L.56-1997, SEC.2; P.L.2-1998, SEC.20; P.L.90-2002, SEC.192; P.L.178-2002, SEC.32; P.L.1-2004, SEC.31 and P.L.23-2004, SEC.34.

IC 6-1.1-20-3.3

Applicability of other statutes to imposition of property taxes

Sec. 3.3. Notwithstanding any other law, a political subdivision may issue or enter into obligations under any statute that requires or permits the imposition of property taxes to pay debt service or lease rentals without pledging to impose property taxes, if necessary, to pay the debt service or lease rentals. If the proper officers of a political subdivision determine to use revenues other than property taxes to pay obligations without pledging to impose property taxes for that purpose, provisions of any other statute relating to controlling property taxes do not apply to the issuance of or entering into the obligations.

As added by P.L.25-1995, SEC.50.

IC 6-1.1-20-4

Repealed

(Repealed by P.L.25-1995, SEC.94.)

IC 6-1.1-20-5

Issuance of bond in excess of \$5,000; procedure; objections by taxpayers

Sec. 5. (a) When the proper officers of a political subdivision decide to issue bonds in a total amount which exceeds five thousand dollars (\$5,000), they shall give notice of the decision by:

- (1) posting; and
- (2) publication once each week for two (2) weeks.

The notice required by this section shall be posted in three (3) public places in the political subdivision and published in accordance with IC 5-3-1-4. The decision to issue bonds may be a preliminary decision.

(b) Ten (10) or more taxpayers who will be affected by the proposed issuance of the bonds and who wish to object to the issuance on the grounds that it is unnecessary or excessive may file a petition in the office of the auditor of the county in which the political subdivision is located. The petition must be filed within fifteen (15) days after the notice required by subsection (a) is given, and it must contain the objections of the taxpayers and facts which show that the proposed issue is unnecessary or excessive. When taxpayers file a petition in the manner prescribed in this subsection, the county auditor shall immediately forward a certified copy of the

petition and any other relevant information to the department of local government finance.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.27-1986, SEC.4; P.L.25-1995, SEC.51; P.L.90-2002, SEC.193.

IC 6-1.1-20-6

Department of local government finance hearing on taxpayers' objections; department action; appeal

Sec. 6. (a) Upon receipt of a certified petition filed in the manner prescribed in section 5(b) of this chapter, the department of local government finance shall fix a time and place for a hearing on the matter. The department of local government finance shall hold the hearing not less than five (5) or more than thirty (30) days after the department receives the petition, and the department shall hold the hearing in the political subdivision or in the county where the political subdivision is located. At least five (5) days before the date fixed for the hearing, the department of local government finance shall give notice of the hearing, by mail, to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition. The mailings shall be addressed to the officer and the taxpayers at their usual place of residence.

(b) After the hearing required by this section, the department of local government finance may approve, disapprove, or reduce the amount of the proposed issue. The department of local government finance must render a decision not later than three (3) months after the hearing, and if no decision is rendered within that time, the issue is considered approved unless the department takes the extension provided for in this section. A three (3) month extension of the time period during which the decision must be rendered may be taken by the department of local government finance if the department by mail gives notice of the extension to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition, at least ten (10) days before the end of the original three (3) month period. If no decision is rendered within the extension period, the issue is considered approved.

(c) A:

- (1) taxpayer who signed a petition referred to in subsection (a);
- or
- (2) political subdivision against which a petition referred to in subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (b). The petition must be filed in the tax court not more than forty-five (45) days after the department renders its decision under subsection (b).
(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.74, SEC.1; P.L.23-1984, SEC.7; P.L.90-2002, SEC.194; P.L.256-2003, SEC.22.

IC 6-1.1-20-7

Interest rate in excess of 8%; approval by department of local

government finance

Sec. 7. When the proper officers of a political subdivision decide to issue any bonds, notes, or warrants which will be payable from property taxes and which will bear interest in excess of eight percent (8%) per annum, the political subdivision shall submit the matter to the department of local government finance for review. The department of local government finance may either approve or disapprove the rate of interest.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.23-1984, SEC.8; P.L.90-2002, SEC.195.

IC 6-1.1-20-8**Repealed**

(Repealed by Acts 1980, P.L.8, SEC.26.)

IC 6-1.1-20-8.5**Repealed**

(Repealed by Acts 1980, P.L.8, SEC.26.)

IC 6-1.1-20-9**Public improvement bonds, ordinance, or resolution; construction bidding**

Sec. 9. (a) When the proper officers of a political subdivision decide to issue bonds payable from property taxes to finance a public improvement, they shall adopt an ordinance or resolution which sets forth their determination to issue the bonds. Except as provided in subsection (b), the political subdivision may not advertise for or receive bids for the construction of the improvement until the expiration of the latter of:

- (1) the time period within which taxpayers may file a petition for review of or a remonstrance against the proposed issue; or
- (2) the time period during which a petition for review of the proposed issue is pending before the department of local government finance.

(b) When a petition for review of a proposed issue is pending before the department of local government finance, the department may order the political subdivision to advertise for and receive bids for the construction of the public improvement. When the department of local government finance issues such an order, the political subdivision shall file a bid report with the department within five (5) days after the bids are received, and the department shall render a final decision on the proposed issue within fifteen (15) days after it receives the bid report. Notwithstanding the provisions of this subsection, a political subdivision may not enter into a contract for the construction of a public improvement while a petition for review of the bond issue which is to finance the improvement is pending before the department of local government finance.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.196.

IC 6-1.1-20-10

Restrictions on promotion of position on petition or remonstrance

Sec. 10. (a) If a petition and remonstrance process is commenced under section 3.2 of this chapter, during the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

- (1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.
- (2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.
- (3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.
- (4) In the case of a school corporation, promoting a position on a petition or remonstrance by:
 - (A) using students to transport written materials to their residences; or
 - (B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

As added by P.L.1-2004, SEC.32 and P.L.23-2004, SEC.35.